

DISTRICT OF COLUMBIA
+ + + + +
ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

IN THE MATTER OF:

| | |
|--|--|
| Flora Restaurant & Lounge, LLC t/a Ghion Restaurant 2010 9th Street, NW Retailer CT - ANC-1B License No. 86205 Case #13-CMP-00473 | Show Cause Hearing 11/5/2014 |
|--|--|

(Operating After Hours,
Substantial Change in
Operation, Interfered With an
Investigation, Failed to Post
License, Failed to Post
Window Lettering)

The Alcoholic Beverage Control
Board met in the Alcoholic Beverage Control
Hearing Room, Reeves Building, 2000 14th
Street, N.W., Suite 400S, Washington, D.C.
20009, Chairperson Ruthanne Miller,
presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
HERMAN JONES, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member

ALSO PRESENT:

MICHAEL STERN, OAG
EARL JONES/JASON PERU, ABRA Investigators

T-A-B-L-E O-F C-O-N-T-E-N-T-S

| | |
|--|-----|
| Opening Statement by Government. | 8 |
| Closing Statement by Government. | .85 |
| Closing Statement by Licensee. | .92 |

| WITNESS | DIRECT | CROSS | REDIRECT | RECROSS |
|------------|--------|-------|----------|---------|
| Earl Jones | 12 | 29 | 66 | 74 |
| Jason Peru | 76 | | | |

EXHIBITS IDENTIFIED RECEIVED

| GOVERNMENT | | |
|--------------------------|----|----|
| 1 - Investigative Report | 22 | 26 |

P-R-O-C-E-E-D-I-N-G-S

(10:30 a.m.)

MR. STERN: They are actually
here.

CHAIRPERSON MILLER: They are all
here?

MR. STERN: Yes.

CHAIRPERSON MILLER: Okay. If
they are all here, then we will hear them.

Okay. I'm going to call Case No.
13-CMP-00473, Ghion Restaurant located at 2010
9th Street, N.W., License No. 86205, in ANC-
1B.

Okay. So we will just have you
introduce yourselves for the record and then
I'm going to say something.

MR. STERN: Yes, good morning.
Michael Stern representing the District of
Columbia..

CHAIRPERSON MILLER: Good morning.
Can you identify yourself for the record?

MS. ASSEFA: Aster Assefa.

1 CHAIRPERSON MILLER: You can sit
2 down. That's okay.

3 MS. ASSEFA: Okay. Aster Assefa.

4 CHAIRPERSON MILLER: Assefa?
5 Okay. Got it. Aster Assefa.

6 MS. ASSEFA: Yes.

7 CHAIRPERSON MILLER: And with you?

8 MR. MORRIS: Vernon Morris.

9 CHAIRPERSON MILLER: And, Mr.
10 Morris, what's your relation?

11 MR. MORRIS: I'm a family member,
12 but I'm going to help interpret.

13 CHAIRPERSON MILLER: Okay. That's
14 -- so you don't need an interpreter? You're
15 fine?

16 MR. MORRIS: I do not.

17 CHAIRPERSON MILLER: Your English
18 is fine. Okay. Good. All right. So we
19 called this a little bit early. Is everybody
20 here who should be here? Okay. It's not like
21 you're waiting for any witnesses or anything
22 like that? Okay.

1 Okay. Mr. Stern?

2 MR. STERN: Yes.

3 CHAIRPERSON MILLER: And can you
4 confirm that everybody is here since we are
5 starting a little early?

6 MR. STERN: I'm sorry, I didn't
7 hear that.

8 CHAIRPERSON MILLER: I said do you
9 want to confirm that everybody is here that
10 should be here, since we are starting a little
11 early?

12 MR. STERN: Everybody is here for
13 the Government that should be here.

14 CHAIRPERSON MILLER: Okay. Okay.

15 MR. STERN: And I understand the
16 respondent is here.

17 CHAIRPERSON MILLER: Okay.
18 Basically and they said the same thing, they
19 are not waiting for anybody else. Okay.

20 So okay, before we start, I want
21 to just get an idea of Ms. Assefa's
22 understanding and, you know, need for someone

1 to translate anything.

2 Do you understand what we are
3 saying?

4 MS. ASSEFA: He will explain for
5 me.

6 CHAIRPERSON MILLER: Okay. So you
7 under -- is it that it's hard for you to speak
8 English back, but you can understand.

9 MS. ASSEFA: He will understand.

10 CHAIRPERSON MILLER: Okay. So Mr.
11 Morris, do we need to speak for -- we don't
12 need to speak slowly? Do you need to
13 translate or not really?

14 MR. MORRIS: I don't need to
15 translate as you are speaking, no.

16 CHAIRPERSON MILLER: Okay.

17 MR. MORRIS: I might need to make
18 sure that she is understanding.

19 CHAIRPERSON MILLER: Okay. So you
20 should feel free to signal me that we pause in
21 the proceedings if you need time to explain
22 anything.

1 MR. MORRIS: Okay.

2 CHAIRPERSON MILLER: Okay.

3 MR. MORRIS: Thank you.

4 CHAIRPERSON MILLER: All right.

5 And basically, it's a Show Cause Hearing. The
6 Government has the burden of proof on the
7 charges. And it's an evidentiary hearing. We
8 will swear witnesses in and admit documents
9 into evidence. It's that type of hearing.

10 So Government goes first and the
11 procedure is that the Government will make an
12 opening statement about the case. And I don't
13 know if you will be acting like an attorney or
14 not, but you all can make an opening statement
15 right away. You don't have to. You can also
16 wait until your case to make an opening
17 statement or not make one at all.

18 Okay. So then Mr. Stern will put
19 on his witnesses and you can cross-examine and
20 the Board can ask questions. And he will put
21 in any documents into evidence he might want.
22 And then it will be your turn to do the same

1 thing, to put on any witnesses. It may just
2 be Ms. Assefa. And then he can cross-examine
3 her and we can ask questions. And you can put
4 in any documents.

5 MR. MORRIS: Okay.

6 CHAIRPERSON MILLER: And then we
7 will have closing statements. Okay?

8 MR. MORRIS: Sure.

9 CHAIRPERSON MILLER: All right.
10 If you have any questions along the way, just
11 feel free, okay, to ask them. All right.

12 Mr. Stern, are you ready to
13 proceed?

14 MR. STERN: Yes.

15 CHAIRPERSON MILLER: Okay.

16 MR. STERN: In this case, the
17 Government's evidence will show that on
18 Saturday, September 7, 2013, at approximately
19 4:16, Investigators from the Alcoholic
20 Beverage Regulation Administration acting on
21 information that the establishment was
22 operating after hours went to the

1 establishment.

2 When they got there, they observed
3 three females walk through the first floor.
4 When the Investigators knocked on the door,
5 the females attempted to hide under the table.
6 The Investigators knocked to try to get in.
7 The Investigators were refused entry. The
8 Investigators observed one of the females run
9 up to the second floor.

10 The Investigators then went around
11 to the back of the establishment and observed
12 10 to 15 patrons exit through the rear second-
13 level door.

14 The Investigators eventually was
15 able to gain access through the second floor
16 rear door. After gaining access, the
17 Investigators conducted a regulatory
18 inspection wherein they found that the
19 establishment did not have their ABC License
20 posted and that they failed to display ABC
21 Board-approved window lettering on the
22 exterior of the window or door.

1 Upon research of the
2 establishment's license, they determined that
3 the establishment's hours of operation were
4 limited to 3:00 a.m.

5 At the conclusion of the case, the
6 Government will ask that the Board return a
7 finding of involvement as to Charge 1, that
8 alcohol beverage was sold or served after 3:00
9 a.m.

10 Charge 2 that there was a
11 substantial change in the establishment
12 without Board approval.

13 Charge 3 that they failed or
14 refused or allow an ABRA Investigator to enter
15 without delay.

16 Charge 4 that they failed to frame
17 their license under glass and conspicuously
18 post the license.

19 And Charge 5 that they failed to
20 conspicuously place on the front door or
21 window the ABC-approved lettering.

22 At the conclusion of the case, the

1 Government will ask for a fine within the
2 statutory range. Thank you.

3 CHAIRPERSON MILLER: Thank you.
4 Do you want to make an opening statement? Let
5 me just say that this is not evidence.
6 Opening statements are not evidence.

7 MR. MORRIS: Not evidence. Okay.
8 No.

9 CHAIRPERSON MILLER: Okay. Okay.
10 All right. Mr. Stern?

11 MR. STERN: Yes. The Government
12 would call its first witness, Investigator
13 Jones.

14 CHAIRPERSON MILLER: Good morning.

15 INVESTIGATOR JONES: Good day.

16 How are you?

17 Whereupon,

18 INVESTIGATOR EARL JONES
19 was called as a witness by Counsel for the
20 Government, and having been first duly sworn,
21 assumed the witness stand and was examined and
22 testified as follows:

1 INVESTIGATOR JONES: I do.

2 CHAIRPERSON MILLER: Okay. Thank
3 you.

4 DIRECT EXAMINATION

5 MR. STERN: Good morning. Could
6 you give us your name and spell your last name
7 for the record, please?

8 INVESTIGATOR JONES: Earl Jones,
9 J-O-N-E-S.

10 MR. STERN: Okay. And are you
11 employed, Mr. Jones?

12 INVESTIGATOR JONES: Yes, sir.

13 MR. STERN: How are you employed?

14 INVESTIGATOR JONES: With the
15 Alcoholic Beverage Regulation Administration
16 as a Compliance Investigator.

17 MR. STERN: Okay. And were you
18 employed as such on September 7, 2013?

19 INVESTIGATOR JONES: Yes, sir.

20 MR. STERN: Okay. On that date
21 and time, did you become familiar with an
22 establishment that became known to you by the

1 trade name of Ghion Restaurant and Lounge?

2 INVESTIGATOR JONES: Yes, sir.

3 MR. STERN: Okay. Can you tell me
4 how it is that you first became aware of the
5 restaurant?

6 INVESTIGATOR JONES: I first
7 became aware of the restaurant a number of
8 years ago doing regulatory inspections. So
9 that's basically how I became familiar with
10 the establishment.

11 MR. STERN: Okay. Did something
12 around the time period of September 7th draw
13 your attention to Ghion Restaurant again?

14 INVESTIGATOR JONES: Yes, sir.
15 During -- within the year of 2013, I was
16 basically 9th Street Corridor, the 1900 Block
17 as well up to the 2000 Block of 9th Street
18 was basically a monitoring area for me towards
19 the late week and into the weekends.

20 And with that, I became familiar
21 with most of the business owners on -- in
22 those two blocks and a lot of them also became

1 informants.

2 MR. STERN: Okay. Drawing your
3 attention to September 5th, which is two days
4 before September 7th, did you receive any
5 information regarding Ghion Restaurant and
6 Lounge?

7 INVESTIGATOR JONES: Yes, sir.

8 MR. STERN: What information did
9 you receive?

10 INVESTIGATOR JONES: I received
11 information that that establishment as well as
12 others were operating after hours.

13 MR. STERN: Okay. And what did
14 you do to investigate this information?

15 INVESTIGATOR JONES: At that
16 point, I notified my supervisor at the time
17 that that was something that was going to be
18 looked at pretty thoroughly over the weekend.
19 And at that juncture, he agreed and said that
20 that's something that I could do --

21 MR. STERN: Okay.

22 INVESTIGATOR JONES: -- on Friday

1 and Saturday night.

2 MR. STERN: Okay. And come
3 Saturday early morning hours, did you conduct
4 an investigation?

5 INVESTIGATOR JONES: Yes. I got
6 another call late Saturday night and was told
7 -- well, yes, I would say early Saturday
8 morning that the owner of the establishment
9 was letting individuals in through the rear
10 door.

11 MR. STERN: Okay. And what did
12 you do?

13 INVESTIGATOR JONES: At that
14 point, I notified my supervisor in which he
15 sent out two other Investigators to accompany
16 me, Investigators Peru and Brashears.

17 MR. STERN: Okay. And did you go
18 out, at that point?

19 INVESTIGATOR JONES: Yes, sir.
20 Yes, sir.

21 MR. STERN: And what did you
22 observe?

1 INVESTIGATOR JONES: I got to the
2 establishment first and I went to the front
3 door. I noticed that there were three females
4 walking throughout the front, throughout the
5 first level floor. I knocked on the door due
6 to the door being locked. And they kind of
7 looked at me and as this was going on,
8 Investigators Peru and Brashears walked up,
9 they pulled up and they walked up, at that
10 point.

11 And during this time, they looked
12 at me. Two of the females hid under two
13 tables that were clearly in our vision and
14 then there was another female that was right
15 in front of me that actually hid under the
16 door where I was standing.

17 And at that point, I started
18 knocking on the window and saying hey, you
19 know, I can see you. Can you, please, open
20 the door. I'm looking right at you.

21 MR. STERN: Did you identify
22 yourself in any manner?

1 INVESTIGATOR JONES: Oh, yes, yes.
2 At that -- I mean, I -- when I initially got
3 there, I knocked on the glass window and I
4 showed my identification and badge.

5 MR. STERN: Okay. And were you
6 allowed immediate entry?

7 INVESTIGATOR JONES: No, sir.

8 MR. STERN: Okay. So what
9 happened after your knocking and they were
10 hiding?

11 INVESTIGATOR JONES: At that
12 point, the female who was laying under the
13 door where I was standing, she just suddenly
14 jumped up and then ran up to the second floor.

15 MR. STERN: Okay.

16 INVESTIGATOR JONES: At that
17 point, I asked Investigators Brashears and
18 Peru to go around to the alleyway, because at
19 that point, I figured that they were going to
20 try to tell people to get out.

21 MR. STERN: Okay.

22 INVESTIGATOR JONES: And as they

1 were running around the corner, I started to
2 come behind them and we, all three of us,
3 observed 10 to 15 people coming from out of
4 the second level exit-way and walking down the
5 alley towards us.

6 MR. STERN: Okay. And then what
7 happened?

8 INVESTIGATOR JONES: I asked one
9 of the patrons where were they coming from and
10 he kind of got a little irate and told me --
11 you know, he cursed at me and he said that,
12 you know, it's a free country and he can go
13 wherever he wants to go and he just kept
14 moving along.

15 MR. STERN: Okay. What happened
16 after that?

17 INVESTIGATOR JONES: After that,
18 we were able -- we ran up to the second floor,
19 because they were trying to close the door.
20 We knocked and then we were finally able to
21 get in. And at that point, we came in contact
22 with Ms. Assefa.

1 MR. STERN: Okay. And what did --
2 what occurred during that interaction?

3 INVESTIGATOR JONES: At that
4 point, you know, we started to look around and
5 see if there were any alcoholic beverages
6 still in the area or were in the area. We
7 again wanted to see if there were any other
8 patrons that were inside of the establishment.
9 And we didn't observe any of that.

10 By the time we had reached
11 downstairs, that's when I started to -- I
12 asked -- well, we started to conduct a
13 regulatory inspection. And then I advised her
14 that she was operating -- she was in violation
15 of operating after hours.

16 MR. STERN: Okay. And how did you
17 determine that? Well, tell me what happened
18 with the regulatory inspection first.

19 INVESTIGATOR JONES: Through the
20 regulatory inspection being conducted, it was
21 observed that the alcohol license was not
22 posted visibly for the public to view as well

1 as the establishment did not have window
2 lettering.

3 MR. STERN: Did you speak to Ms.
4 Assefa then to about the license?

5 INVESTIGATOR JONES: Yes, sir.

6 MR. STERN: And what happened?

7 INVESTIGATOR JONES: She ended up
8 pulling the license out of a -- it was, I
9 believe it was, like a binder and it had
10 sleeves in it. She ended up pulling it out of
11 that, I believe.

12 MR. STERN: Okay. So it wasn't
13 hanging up there --

14 INVESTIGATOR JONES: No, sir.

15 MR. STERN: -- anywhere?

16 INVESTIGATOR JONES: No, sir.

17 MR. STERN: Okay. And you
18 conducted an inspection for the lettering as
19 well?

20 INVESTIGATOR JONES: Yes, sir.

21 MR. STERN: And what did you
22 determine on that?

1 INVESTIGATOR JONES: That there
2 was no window lettering on any of the exterior
3 windows or front door.

4 MR. STERN: Okay. Now, were you
5 able to determine what the normal hours of
6 operation or what the allowable hours of
7 operation were for the establishment?

8 INVESTIGATOR JONES: Yes, sir.
9 For that Friday night into the Saturday
10 morning, it would have been 11:00 a.m. to 3:00
11 a.m.

12 MR. STERN: Okay. And again, do
13 you recall the time that you observed the
14 patrons leaving the establishment?

15 INVESTIGATOR JONES: I observed --
16 it was close to 4:00 in the morning.

17 MR. STERN: Okay. Now, I'm going
18 to show you what I'm going to have marked as
19 Government's No. G-1 and ask if you recognize
20 what that is?

21 INVESTIGATOR JONES: Okay.

22 CHAIRPERSON MILLER: Mr. Stern,

1 have you shown it to the applicant?

2 MR. STERN: We believe they do
3 have a copy, but I have an extra copy here for
4 them.

5 MR. MORRIS: Thanks.

6 CHAIRPERSON MILLER: Thank you.

7 MR. STERN: Do you recognize what
8 this is?

9 INVESTIGATOR JONES: Yes, sir,
10 that's my report.

11 (Whereupon, the above-referred to
12 document was marked as Government
13 Exhibit No. 1 for identification.)

14 MR. STERN: Okay. And is that
15 your signature on the report?

16 INVESTIGATOR JONES: Yes, it is.

17 MR. STERN: Okay. Now, did you
18 attach any exhibits to the report?

19 INVESTIGATOR JONES: Yes, sir.

20 MR. STERN: What exhibits were
21 those?

22 INVESTIGATOR JONES: Due to them

1 being in black and white, they are not that
2 clear, but it's a picture of the front of
3 Ghion Restaurant and Lounge. The second
4 exhibit is a picture of the alleyway in which
5 the patrons were observed coming from the
6 second floor exit. And the third is the
7 regulatory inspection.

8 CHAIRPERSON MILLER: Excuse me, do
9 we need to pause here? Do we need to pause?
10 Because to talk to -- you're the interpreter.
11 Is that right?

12 MR. MORRIS: This is the
13 interpreter, yes.

14 CHAIRPERSON MILLER: Okay. Do you
15 want to introduce yourself for the record,
16 please?

17 INTERPRETER ZEKIROS: My name is
18 Astair Zekiros. I'm from --

19 CHAIRPERSON MILLER: Okay.

20 INTERPRETER ZEKIROS: -- NCS
21 Interpreter Services.

22 CHAIRPERSON MILLER: Okay.

1 INTERPRETER ZEKIROS: I interpret
2 Amharic language, so I interpret what was said
3 and every word interpreted is confidential.

4 CHAIRPERSON MILLER: You can have
5 a seat. I just want to have on the record
6 what is happening now. So now we are
7 proceeding with an interpreter in addition to
8 Mr. Morris. Okay.

9 So I don't know if you are going
10 to be -- are you going to be translating or
11 how are you going to address the language
12 issue? Are you going to translate as they go
13 along?

14 INTERPRETER ZEKIROS: Yes.

15 CHAIRPERSON MILLER: Are you going
16 to explain it? Okay. Because they may need
17 to go more slowly then, correct?

18 INTERPRETER ZEKIROS: Yes.

19 CHAIRPERSON MILLER: Okay. Okay.

20 MR. STERN: The pictures that I
21 contained thereon, are they true and accurate
22 depictions of what you saw that evening?

1 INVESTIGATOR JONES: Yes, sir.

2 MR. STERN: I would move the
3 admission of Government's G-1 into evidence.

4 CHAIRPERSON MILLER: Mr. Stern,
5 can you or the witness identify what
6 Government G-1 is? It's the investigative
7 report? Is that it?

8 MR. STERN: Yes. Again, can you
9 tell us what that is?

10 INVESTIGATOR JONES: It's the
11 investigative report.

12 CHAIRPERSON MILLER: Okay.

13 MR. STERN: That's the report you
14 wrote?

15 INVESTIGATOR JONES: Yes, sir.

16 MR. STERN: Thank you.

17 CHAIRPERSON MILLER: Okay. Do you
18 all understand? He is moving into evidence
19 the investigative report. And if you have an
20 objection, you can raise it, but that's really
21 part of the record.

22 MR. MORRIS: No objection.

1 CHAIRPERSON MILLER: Okay. All
2 right. So that's admitted, Government Exhibit
3 No. 1, which is the investigative report.

4 (Whereupon, the above-referred to
5 document was received into
6 evidence as Government Exhibit No.
7 1.)

8 CHAIRPERSON MILLER: Okay.

9 MR. STERN: Now, can you give us
10 just a little bit more detail on what occurred
11 when you went around the back of the alley?
12 After you encountered the patron coming out,
13 what did you do next?

14 INVESTIGATOR JONES: Patrons.

15 MR. STERN: Patrons.

16 INVESTIGATOR JONES: Yes. After
17 we saw the group of patrons coming from the
18 second floor and walking towards us throughout
19 the -- from the alley, we immediately tried to
20 run to that second floor door before they were
21 able to close it. We got there.

22 MR. STERN: Now, you say that --

1 can I ask why did you believe they were -- I
2 mean, what did you observe that gave you the
3 impression that it was being closed before you
4 can get there?

5 INVESTIGATOR JONES: Well, first
6 of all, the front door was locked.

7 MR. STERN: Okay.

8 INVESTIGATOR JONES: So that
9 immediately tells me that I need to get to
10 that second door --

11 MR. STERN: Right.

12 INVESTIGATOR JONES: -- because
13 they are going to lock it.

14 MR. STERN: Okay.

15 INVESTIGATOR JONES: So it was
16 imperative as far as I was concerned that we
17 try to get there at least before the last
18 patron is kind of told to exit or whatever the
19 case may be. So we tried to get there as
20 quickly as we could.

21 MR. STERN: Okay.

22 INVESTIGATOR JONES: Before they

1 closed the door.

2 MR. STERN: Okay. So what
3 happened when you got up there?

4 INVESTIGATOR JONES: When we got
5 up there --

6 MR. STERN: Was there someone at
7 the door?

8 INVESTIGATOR JONES: Yes, there
9 was someone at the door, because that's how we
10 were able to get in.

11 MR. STERN: Okay.

12 INVESTIGATOR JONES: And we were
13 able to access the establishment through the
14 second level. Again, we walked around. We
15 did not observe any alcohol at that time. We
16 walked down to the -- and then that's when we
17 walked down to the first level and we started
18 to conduct the regulatory inspection and speak
19 with the owner.

20 MR. STERN: Okay. Okay. Thank
21 you. There's no further questions.

22 INVESTIGATOR JONES: Yes, sir.

1 CHAIRPERSON MILLER: Okay. Mr.
2 Morris, do you have any questions of the
3 Investigator, based on his testimony and his
4 report?

5 MR. MORRIS: Yes, I would.

6 CROSS-EXAMINATION

7 MR. MORRIS: If I could direct
8 attention to Exhibit 1.

9 INVESTIGATOR JONES: Yes, sir.

10 MR. MORRIS: The picture here, can
11 you copy? Looking at that picture, I would
12 say looking at the picture to the left of the
13 picture, there is a plate glass window. Can
14 you see the piece of paper that is in the
15 lower right hand corner?

16 INVESTIGATOR JONES: Okay. So now
17 I need the exhibit. And as I said before,
18 that is -- because that's a black and white
19 picture, at this point, that's unclear.

20 MR. MORRIS: But you can see there
21 is a presence of a posted document?

22 INVESTIGATOR JONES: There is

1 something there, yes.

2 MR. MORRIS: Yes, okay.

3 INVESTIGATOR JONES: That is a
4 white piece of paper right there.

5 MR. MORRIS: And I guess from here
6 you can't tell. And that was there when you--

7 INVESTIGATOR JONES: But I do want
8 to explain something to you. Because this
9 picture was taken during the daytime and it
10 was taken off of Google, because what I wanted
11 to do was get a clear depiction during the day
12 of what the space looked like. So I didn't
13 want to take it at night during that time.

14 So this was a different point in
15 time of the front of the establishment than
16 what we are talking about.

17 MR. MORRIS: And when you went
18 upstairs, were people drinking?

19 INVESTIGATOR JONES: No.

20 MR. MORRIS: Was there --

21 INVESTIGATOR JONES: We did not
22 observe anyone inside the establishment

1 outside of what we were told were employees,
2 at that time. And we did not observe anyone
3 consuming alcoholic beverages either.

4 MR. MORRIS: So functionally, they
5 weren't selling. You did not observe them
6 selling liquor or operating the establishment?

7 INVESTIGATOR JONES: I did not
8 observe that. However, there were several
9 minutes between the time that we stood out
10 front and observed individuals hiding and
11 trying to get inside, between that time and
12 walking around the entire block to the
13 alleyway and observing all of these patrons
14 come out of the second floor. There was
15 plenty of time for whatever had taken place to
16 be discarded. That's my interpretation of it.

17 MR. MORRIS: But on your --

18 INVESTIGATOR JONES: But again, I
19 did not observe anything inside.

20 MR. MORRIS: And in your
21 inspection of it, you would have looked for
22 evidence of --

1 INVESTIGATOR JONES: Sure, sure.

2 MR. MORRIS: -- things being
3 discarded?

4 INVESTIGATOR JONES: Sure.

5 MR. MORRIS: And you did not find
6 anything?

7 INVESTIGATOR JONES: I did not.
8 No, I did not look -- I did not see any cups
9 or anything that was out in the open. I did
10 not see that.

11 MR. MORRIS: And was Ms. Assefa
12 helpful? Once you went in, did she try to
13 obstruct anything or was she --

14 INVESTIGATOR JONES: I wouldn't
15 say that she tried to obstruct anything. What
16 I would say is that there were a lot of
17 excuses that were brought up as to who people
18 were, as to, you know, the reason why these
19 people hid was because they were afraid. And
20 somebody was deaf. There were a lot of things
21 that was going on that -- you know, again, so
22 to me I can't say once we got in that there

1 was interference per se taking place, but
2 definitely before we tried to get in. We
3 could not access the building at all.

4 MR. MORRIS: Okay. So you came up
5 -- it's fair to say that they looked startled,
6 looked scared?

7 INVESTIGATOR JONES: No, I
8 wouldn't say that.

9 MR. MORRIS: They did not?

10 INVESTIGATOR JONES: No.

11 MR. MORRIS: Okay.

12 INVESTIGATOR JONES: They looked
13 at us and it was -- it didn't, to me, appear
14 a look of being startled. It was just like
15 oh, okay, well, let me hide because it was
16 such a -- it wasn't like a quick thing that
17 took place. They did it very slowly.

18 And the woman that was right in
19 front of me just kind of slid herself under
20 the door and I'm looking right at her and I'm
21 like, ma'am, knock, knock, can you, please,
22 open the door?

1 So it didn't appear to be anything
2 that was they were startled or scared.

3 MR. MORRIS: Okay. Just not fully
4 rational though. It doesn't sound fully
5 rational if someone is thinking clearly that
6 they would hide in plain sight.

7 MR. STERN: Objection.

8 INVESTIGATOR JONES: Again, I
9 can't comment on that.

10 MEMBER ALBERTI: Wait. There is
11 an objection.

12 CHAIRPERSON MILLER: Mr. Stern,
13 what's the objection?

14 MR. STERN: He is asking him to
15 comment on the state of mind of a third
16 person.

17 INVESTIGATOR JONES: Yes.

18 MR. STERN: And I let it go, but
19 now I'm objecting.

20 CHAIRPERSON MILLER: Okay. You
21 are objecting.

22 MR. MORRIS: To your benefit. I

1 understand.

2 CHAIRPERSON MILLER: Do you have a
3 response?

4 MR. MORRIS: No response.

5 CHAIRPERSON MILLER: You asked him
6 is it reasonable or something. What was the
7 question?

8 MR. MORRIS: I thought --

9 CHAIRPERSON MILLER: Could you
10 repeat the question? If you would like.

11 MR. MORRIS: I said I think I
12 don't know exactly what I said, but the point
13 was really if you -- if someone was thinking
14 rationally, would you expect them to hide in
15 plain sight?

16 CHAIRPERSON MILLER: Oh, okay.

17 INVESTIGATOR JONES: I'm not
18 really going to comment on that.

19 CHAIRPERSON MILLER: All right.
20 There you go. Okay.

21 MEMBER ALBERTI: Was the objection
22 sustained or overruled?

1 CHAIRPERSON MILLER: Well, he
2 answered the question before I ruled on it, so
3 it's moot.

4 MR. STERN: Okay.

5 MEMBER ALBERTI: Well, is that
6 answer in the record now? That's what I'm
7 asking. Is it stricken from the record or is
8 it --

9 CHAIRPERSON MILLER: No, no, no.

10 MEMBER ALBERTI: -- in the record?

11 CHAIRPERSON MILLER: It's in the
12 record.

13 MEMBER ALBERTI: Okay. So you
14 sustained.

15 CHAIRPERSON MILLER: Oh, okay.

16 MEMBER ALBERTI: You --

17 CHAIRPERSON MILLER: Sustained.

18 MEMBER ALBERTI: -- did not
19 sustain the objection. Thank you.

20 CHAIRPERSON MILLER: Okay. You're
21 welcome.

22 MR. MORRIS: So last question.

1 INVESTIGATOR JONES: Yes.

2 MR. MORRIS: So in your search for
3 the -- the license were there in the
4 establishment, but they weren't really
5 visible? I just want to get a clarification,
6 sir.

7 INVESTIGATOR JONES: Yes. By law,
8 all of the Government documentation, in
9 particular with reference to us, the alcohol
10 license, window lettering that we discussed,
11 all of these things have to be posted
12 conspicuously for the public to view. The
13 license was not posted in any fashion. It was
14 basically in I want to say something like this
15 and it had -- it was in a plastic sleeve
16 inside of the binder. And so she pulled it
17 out and then she showed it to us. So it
18 wasn't posted as, you know, per the law.

19 MR. MORRIS: Does it need to be
20 posted during hours of operation?

21 INVESTIGATOR JONES: It should be
22 posted period.

1 MR. MORRIS: Even when the --

2 INVESTIGATOR JONES: It should
3 just have it posted period.

4 CHAIRPERSON MILLER: Wait, Mr.
5 Jones? I think he didn't finish his question
6 yet. Right?

7 MR. MORRIS: Yes.

8 CHAIRPERSON MILLER: Don't make it
9 a compound question, if you know what I mean.

10 MR. MORRIS: Oh, sorry.

11 CHAIRPERSON MILLER: So you can
12 ask the witness individually.

13 MR. MORRIS: Yes. So I guess
14 without a compound, does the -- does it matter
15 whether the establishment is closed and not
16 operating to have the license information
17 conspicuously posted?

18 INVESTIGATOR JONES: To be honest
19 with you, the only time that I have observed
20 that a license is either moved or taken down
21 is when the establishment is more like a
22 caterer. She is not a caterer. So and there

1 have been plenty of times where I have done
2 regulatory inspections there and the licenses
3 have been up. And I have been there prior to
4 her opening or I have been there as she is
5 just opening and the licenses have been
6 posted.

7 So and in this case, to me, she
8 was open if you want to technically talk about
9 it.

10 MR. MORRIS: No, that wasn't my
11 question.

12 INVESTIGATOR JONES: I understand
13 that, but what I'm saying to you is to me she
14 was open. She was still open almost at 4:00
15 or at 4:00 in the morning.

16 MR. MORRIS: But the doors were
17 locked?

18 INVESTIGATOR JONES: With 10 to 15
19 people inside, yes, the doors were locked.

20 MR. MORRIS: But not serving
21 alcohol?

22 INVESTIGATOR JONES: Again, I

1 couldn't get in, so I couldn't tell you.

2 MR. MORRIS: Okay. So you --

3 INVESTIGATOR JONES: I can't tell
4 you.

5 MR. MORRIS: So the doors were
6 locked, but it's not clear that they were
7 serving alcohol and it's not clear that they
8 were serving alcohol. Okay.

9 INVESTIGATOR JONES: Yes.

10 MR. MORRIS: Was the binder clear?
11 I guess the question is the binder that she
12 pulled the license from, was it a clear
13 binder? You can see through it?

14 INVESTIGATOR JONES: The licenses
15 weren't posted, sir. They just weren't
16 posted.

17 MR. MORRIS: No, I was --

18 INVESTIGATOR JONES: I understand
19 what you are saying, but the licenses weren't
20 posted.

21 CHAIRPERSON MILLER: Okay.

22 INVESTIGATOR JONES: No, the

1 binder was not clear.

2 CHAIRPERSON MILLER: He just did.
3 Okay.

4 MR. MORRIS: So you mentioned that
5 one of the things that Ms. Assefa related to
6 you was one of the young ladies that you saw
7 was deaf.

8 INVESTIGATOR JONES: Yes.

9 MR. MORRIS: Were you able to
10 confirm that on a later visit?

11 INVESTIGATOR JONES: I actually
12 had my supervisor, at the time -- well, he
13 wanted to visit her as well the next night.
14 And so we showed up the next night and she
15 told him the same thing. So I can't --
16 because I don't know. I can't confirm that
17 she was deaf or not. I can't do that. I
18 don't know.

19 I can easily try to speak with
20 somebody and they could act like they are
21 deaf. So I can't confirm whether that took
22 place or not, but she did tell him that she

1 was deaf. She did tell him that.

2 CHAIRPERSON MILLER: Could you --
3 I'm sorry. Could you repeat that? She did
4 tell him what?

5 INVESTIGATOR JONES: That one of
6 the employees was deaf.

7 CHAIRPERSON MILLER: Oh, one of
8 the employees was deaf. Okay. Thank you.

9 INVESTIGATOR JONES: Yes.

10 MR. MORRIS: Okay. I'm done.

11 CHAIRPERSON MILLER: Okay. Board
12 questions? No? Mr. Brooks isn't here.

13 Okay. Mr. Jones?

14 INVESTIGATOR JONES: Yes, ma'am?

15 CHAIRPERSON MILLER: Could you
16 clarify for me, I think you said you saw only
17 employees when you got in, but then you made
18 reference to all these other people running
19 out from the alley.

20 INVESTIGATOR JONES: I'm sorry. I
21 didn't hear what you said, ma'am.

22 CHAIRPERSON MILLER: All right.

1 Could you address the question of when you saw
2 employees and when you saw patrons?

3 INVESTIGATOR JONES: When I
4 initially came in contact with the
5 establishment, I went to the front door.

6 CHAIRPERSON MILLER: Okay.

7 INVESTIGATOR JONES: At the front
8 door, there is a -- the front door has a huge
9 glass pane in it, so you can clearly see what
10 is going on on the inside, unless they cover
11 that glass up.

12 CHAIRPERSON MILLER: Okay.

13 INVESTIGATOR JONES: And at that
14 time, I saw, you know, three females. They
15 were walking around and then as soon as I hit
16 the glass and I put my badge to the glass,
17 that's when they tried to hide under the
18 tables and there was one that was like coming
19 towards me before she actually saw, you know,
20 what was going on.

21 And then when she saw that, she
22 just kind of slid under the door where I was

1 standing.

2 CHAIRPERSON MILLER: Okay. So you
3 saw three females looking through the door and
4 when they saw you, they hid?

5 INVESTIGATOR JONES: They hid,
6 yes.

7 CHAIRPERSON MILLER: Okay.

8 INVESTIGATOR JONES: And then --

9 CHAIRPERSON MILLER: Do you know
10 whether they were employees or whether they
11 were patrons?

12 INVESTIGATOR JONES: I was told
13 that they were employees.

14 CHAIRPERSON MILLER: When you got
15 inside --

16 INVESTIGATOR JONES: Yes.

17 CHAIRPERSON MILLER: -- you were
18 told by whom?

19 INVESTIGATOR JONES: By the owner.

20 CHAIRPERSON MILLER: Okay. And
21 who else did you see in the establishment
22 after hours?

1 INVESTIGATOR JONES: Well, when
2 the female who hid under the door where I was
3 standing, she jumped up and then she ran
4 upstairs, that's when I told Investigators
5 Peru and Brashears, you know, they should try
6 to make it around the back to see what's going
7 on.

8 As soon as we made it around the
9 block and around the corner, as soon as we got
10 to the opening of the alleyway, we could see
11 them coming out of the top of the stairwell
12 and they were all coming towards us. And
13 that's when I asked one of the individuals,
14 you know, where were they coming from and they
15 -- you know, he kind of cussed and he said
16 it's a free country, I can come where I want.

17 CHAIRPERSON MILLER: That's the
18 one.

19 INVESTIGATOR JONES: And they were
20 all Africans.

21 CHAIRPERSON MILLER: All what?

22 INVESTIGATOR JONES: They were all

1 African, Ethiopian or whatever.

2 CHAIRPERSON MILLER: Oh, okay. So
3 how many individuals?

4 INVESTIGATOR JONES: I would say
5 10 to 15.

6 CHAIRPERSON MILLER: 10 to 15.

7 INVESTIGATOR JONES: Yes, ma'am.

8 CHAIRPERSON MILLER: Did you think
9 that these individuals were patrons or no?

10 INVESTIGATOR JONES: It wasn't I
11 think. I could see they were coming out of
12 the back door and that was the same door that
13 we got into.

14 CHAIRPERSON MILLER: Okay.

15 INVESTIGATOR JONES: And we came
16 in contact with the owner.

17 CHAIRPERSON MILLER: So how did
18 you decide that they were patrons? Why did
19 you think that they were patrons?

20 INVESTIGATOR JONES: I don't know
21 of -- at least I don't have too many family
22 members, you know, 15 to 20 family members

1 that just kind of hang out with me anywhere at
2 4:00 in the morning and that's the way I look
3 at it.

4 And my thinking is that if, you
5 know, you are not trying to do something to me
6 that is deceiving, why not let these people
7 out the front door?

8 CHAIRPERSON MILLER: Yes. Is this
9 a new establishment or has it been around for
10 a while?

11 INVESTIGATOR JONES: Oh, it has
12 been around for a while, ma'am.

13 CHAIRPERSON MILLER: Okay. So
14 because when I looked at the investigative
15 history, I didn't see any violations. Is that
16 right?

17 INVESTIGATOR JONES: That's
18 accurate. I haven't -- I mean, you know, I'll
19 be honest with you. I haven't had any
20 negative interactions with Ms. Assefa. I
21 haven't. So I can't tell you that she is a
22 bad owner. I can't give you any of those

1 comments or, you know, any of those types of
2 things.

3 The interaction that I have had
4 with her have all been pleasant. It was just
5 this one night. And again, you know, because
6 like I told you or I said previously in 2013,
7 the 9th Street Corridor was pretty much
8 assigned to me, so I knew a lot of the
9 business owners and they would all tell on
10 each other.

11 So one would say such and such is
12 operating after hours. They would all call
13 me. So this is how this whole thing came up.

14 CHAIRPERSON MILLER: Okay.

15 INVESTIGATOR JONES: So, you know,
16 my whole thing is that whether she is a good
17 business owner or not, you know, that's up for
18 interpretation, but again, it's a lot of the
19 business owners that do certain things and
20 they just haven't gotten caught.

21 CHAIRPERSON MILLER: So the call
22 that you got or the information, was it that

1 she was doing it on a regular basis or just --

2 INVESTIGATOR JONES: It was just--

3 no. It was -- that wasn't something that I

4 asked. It was just hey, you know, this is

5 what is going on at Ghion tonight.

6 CHAIRPERSON MILLER: Okay. Okay.

7 Oh, did you see anyone in particular

8 obstructing the Investigators from getting in?

9 I mean, was there somebody, you know, that you

10 peered through the door and you could see they

11 locked it or anything like that?

12 INVESTIGATOR JONES: I can't tell

13 you. You know, this is a year ago now.

14 CHAIRPERSON MILLER: Okay.

15 INVESTIGATOR JONES: I can't tell

16 you yes or no on that.

17 CHAIRPERSON MILLER: Okay. Could

18 you tell whether there was any language issue?

19 INVESTIGATOR JONES: No.

20 CHAIRPERSON MILLER: Okay. No

21 there wasn't?

22 INVESTIGATOR JONES: No.

1 CHAIRPERSON MILLER: Okay. Okay.

2 Okay. That's all. Thank you. Mr. Alberti?

3 MEMBER ALBERTI: Okay.

4 Investigator, before I start asking questions,
5 I don't care about your opinion about whether
6 this is a good operator or bad operator. I
7 want to focus on the facts today.

8 INVESTIGATOR JONES: Yes, sir.

9 MEMBER ALBERTI: So I want you to
10 just answer my questions. I don't need your
11 opinion. Just --

12 COURT REPORTER: I'm sorry, is
13 your microphone on?

14 CHAIRPERSON MILLER: Wait a
15 second.

16 COURT REPORTER: Is your
17 microphone on?

18 MEMBER ALBERTI: Okay. It's on
19 now. Okay.

20 CHAIRPERSON MILLER: Okay.

21 MEMBER ALBERTI: So I just want
22 your answers to my questions, okay?

1 INVESTIGATOR JONES: Yes, sir.

2 MEMBER ALBERTI: All right. So
3 you said you arrived just before 4:00. Is
4 that correct?

5 INVESTIGATOR JONES: Yes, sir.

6 MEMBER ALBERTI: Okay. Can you
7 give me a better time frame? Was it after
8 3:30?

9 INVESTIGATOR JONES: Yes, it was
10 after 3:30. It was approximately 3:45 to
11 3:50.

12 MEMBER ALBERTI: Okay. Great.
13 Thank you.

14 INVESTIGATOR JONES: Yes.

15 MEMBER ALBERTI: I wanted you to
16 narrow it down. All right. So you knocked on
17 the door. The other two Investigators weren't
18 there yet, right?

19 INVESTIGATOR JONES: Yes, sir.

20 MEMBER ALBERTI: And you knocked
21 on the door. How much time elapsed before you
22 started speaking to the people inside?

1 INVESTIGATOR JONES: I would say
2 probably five to six minutes.

3 MEMBER ALBERTI: Oh, they were
4 scurrying around and hiding under tables?

5 INVESTIGATOR JONES: Yes, because
6 we were -- as soon as I got to the front door,
7 I knocked and Investigators Peru and Brashears
8 probably arrived maybe two minutes after I had
9 been there. So they arrived pretty quickly.

10 MEMBER ALBERTI: They arrived
11 pretty quickly?

12 INVESTIGATOR JONES: Yes, sir.

13 MEMBER ALBERTI: But had you
14 started --

15 INVESTIGATOR JONES: And then --

16 MEMBER ALBERTI: -- to --

17 INVESTIGATOR JONES: But they --
18 yes, sir.

19 MEMBER ALBERTI: You started to
20 speak -- try to speak to the people inside, at
21 that point?

22 INVESTIGATOR JONES: I tried to

1 talk to them through the door and --

2 MEMBER ALBERTI: Okay. So my
3 question is you knocked on the window. All
4 right. And then you saw this activity of
5 people ducking under tables and hiding under
6 the door. And then you immediately started to
7 talk to them?

8 INVESTIGATOR JONES: Yes.

9 MEMBER ALBERTI: Okay.

10 INVESTIGATOR JONES: Or attempted
11 to, I should say.

12 MEMBER ALBERTI: Right.
13 Attempted.

14 INVESTIGATOR JONES: Yes.

15 MEMBER ALBERTI: Okay. Where I'm
16 going is how long was it before you all
17 decided, you and the other two Investigators
18 decided, to go around back?

19 INVESTIGATOR JONES: That was
20 probably, I would say probably, two minutes.
21 Two or three minutes because it was a little
22 while and I'm trying to say hey, you know, why

1 are you hiding under the tables and then there
2 was one female that was kind of like right
3 there at the door and she slid right under the
4 door.

5 MEMBER ALBERTI: Okay.

6 INVESTIGATOR JONES: So what I'm
7 trying -- I'm spending time knocking on the
8 window saying hey, I can see you. I'm looking
9 right at you. Can you just get up off the
10 floor and open the door?

11 MEMBER ALBERTI: Okay.

12 INVESTIGATOR JONES: And then she
13 just kind of got up and bolted upstairs.

14 MEMBER ALBERTI: Okay. Great.

15 CHAIRPERSON MILLER: And I just
16 want to interject for the record that Mr.
17 Rodriguez has joined us on the dias.

18 MEMBER ALBERTI: Okay.

19 CHAIRPERSON MILLER: Okay.

20 MEMBER ALBERTI: Okay. So the
21 next thing that happens -- okay. Is it your
22 impression that the three people who were

1 downstairs that you observed, is it your
2 impression that those are the three people
3 that Ms. Assefa referred to as employees?

4 INVESTIGATOR JONES: Yes, sir.

5 MEMBER ALBERTI: How certain are
6 you of that, that that is who she was
7 referring to?

8 INVESTIGATOR JONES: Well, I'll
9 tell you this. The two that hid under tables,
10 she pointed them out to me inside.

11 MEMBER ALBERTI: And said those
12 are employees?

13 INVESTIGATOR JONES: Right. The
14 third that was under the door was dressed like
15 she was out to club and she -- I observed her
16 walking out past us in the alleyway.

17 MEMBER ALBERTI: Okay. Well,
18 let's talk about the dress. The two women
19 that she pointed out as employees, how were
20 they dressed differently than the third woman?

21 INVESTIGATOR JONES: The only
22 thing that I could say, sir, is the third

1 woman had on high heels and the other two
2 didn't. They had more of a, you know --

3 MEMBER ALBERTI: Okay.

4 INVESTIGATOR JONES: -- almost a
5 slipper shoe on, type of deal.

6 MEMBER ALBERTI: All right. So
7 how long did it take you to get around back,
8 do you think?

9 INVESTIGATOR JONES: Maybe a
10 minute.

11 MEMBER ALBERTI: All right. So
12 how long before -- so you knocked on the door
13 and then you and the two other Investigators
14 make it around back, how much time had
15 transpired, do you think, by that time?

16 INVESTIGATOR JONES: I think -- as
17 I said, I'm thinking probably around five
18 minutes.

19 MEMBER ALBERTI: Around five
20 minutes?

21 INVESTIGATOR JONES: Yes, sir.

22 MEMBER ALBERTI: Okay.

1 INVESTIGATOR JONES: Total.

2 MEMBER ALBERTI: So when you said
3 you saw these people coming from the
4 stairwell, describe the top of the stairwell
5 for me. Is it like a -- I mean, just as an
6 example, is it iron steps or wooden steps that
7 come down? I mean, what do you mean?
8 Describe it for me.

9 INVESTIGATOR JONES: The rear of
10 the establishment, from what I recall, there
11 are, I believe, iron steps that go up to the
12 second level. It's all black.

13 MEMBER ALBERTI: Okay.

14 INVESTIGATOR JONES: And it leads
15 to that second level exit door.

16 MEMBER ALBERTI: Okay.

17 INVESTIGATOR JONES: And that's
18 the door that we were able to gain entrance.

19 MEMBER ALBERTI: So is there a
20 landing at the top of that?

21 INVESTIGATOR JONES: Yes, sir.

22 Yes, sir.

1 MEMBER ALBERTI: To the best of
2 your recollection, could you fit 10 people on
3 that landing?

4 INVESTIGATOR JONES: I can't tell
5 you.

6 MEMBER ALBERTI: All right.

7 INVESTIGATOR JONES: I couldn't
8 tell you, sir.

9 MEMBER ALBERTI: So what was the
10 sort of the demeanor of the -- how did these
11 people coming down the stairway appear to you?
12 I mean, were they rushing? Were they walking?
13 Were they laughing?

14 INVESTIGATOR JONES: Oh, they
15 were --

16 MEMBER ALBERTI: Were they talking
17 with each other and looking around when they
18 came down? What was going on?

19 INVESTIGATOR JONES: -- very
20 casual as I have seen in other instances where
21 I have seen people come out of back doors so--
22 on 9th Street. They are very casual. You

1 know, they are just going about their
2 business. They are talking. And as I said,
3 I asked one of the individuals where were they
4 coming from and, you know, he cursed at me.

5 MEMBER ALBERTI: Okay. I
6 understand that. Okay. All right. All
7 right. Were there males and females?

8 INVESTIGATOR JONES: Yes.

9 MEMBER ALBERTI: Were the females
10 dressed in a way that would lend you to
11 believe that they were employees or not
12 employees?

13 INVESTIGATOR JONES: Not
14 employees.

15 MEMBER ALBERTI: And why?

16 INVESTIGATOR JONES: Well, again,
17 because they all had high heels on. They were
18 -- either had, you know -- I can't explain
19 what the women wear, but, you know, nice
20 dresses.

21 MEMBER ALBERTI: Okay. So they
22 had high heels.

1 INVESTIGATOR JONES: Definitely
2 high heels.

3 MEMBER ALBERTI: And is it fair to
4 say they appeared to be out for the evening?

5 INVESTIGATOR JONES: Yes, sir.

6 MEMBER ALBERTI: Okay. Out to
7 socialize for the evening?

8 INVESTIGATOR JONES: Yes, sir.

9 MEMBER ALBERTI: Okay. All right.
10 When you got inside, did you take a look
11 behind the bar? Okay. What is upstairs? I
12 mean, is there a bar upstairs?

13 INVESTIGATOR JONES: To be honest
14 with you, sir, I can't remember.

15 MEMBER ALBERTI: All right. Do
16 you know if this place has a fully-stocked
17 bar?

18 INVESTIGATOR JONES: I know that
19 there is one downstairs.

20 MEMBER ALBERTI: But you don't
21 know what is upstairs?

22 INVESTIGATOR JONES: I don't

1 recall what is upstairs because what I do
2 recall is once we were able to access the
3 inside, we -- I immediately started looking
4 for Ms. Assefa and -- because I knew she was
5 the owner.

6 MEMBER ALBERTI: Yes.

7 INVESTIGATOR JONES: I didn't see
8 her upstairs. And I quickly went downstairs.
9 So that's the reason why I can tell you that
10 I don't really know what was upstairs.

11 MEMBER ALBERTI: Do you remember
12 at all how the upstairs was furnished?

13 INVESTIGATOR JONES: No, sir.

14 MEMBER ALBERTI: Were there
15 couches, tables and chairs or what's up there?

16 INVESTIGATOR JONES: I can't
17 recall, sir.

18 MEMBER ALBERTI: Okay. Did you
19 see any glassware at all out?

20 INVESTIGATOR JONES: No, I didn't
21 see any out. Not during the visit, no.

22 MEMBER ALBERTI: Either -- you or

1 either of the Investigators look at any of the
2 garbage that was there?

3 INVESTIGATOR JONES: And again,
4 you would have to -- well, they are gone now,
5 but I didn't look at any of the garbage cans.
6 I was speaking with Ms. Assefa.

7 MEMBER ALBERTI: Okay.

8 INVESTIGATOR JONES: And trying to
9 understand what was taking place.

10 MEMBER ALBERTI: Okay. I have no
11 further questions. Thank you.

12 INVESTIGATOR JONES: Yes.

13 CHAIRPERSON MILLER: Any other
14 questions? I have just one follow-up
15 question, Mr. Jones. Did you ask anybody why
16 they were hiding or why these individuals were
17 hiding?

18 INVESTIGATOR JONES: No one spoke
19 English, at that time. So you had two that
20 didn't speak English all of a sudden and then
21 you have one that is deaf.

22 CHAIRPERSON MILLER: Okay.

1 MEMBER ALBERTI: Mr. Jones? May I
2 ask a question?

3 CHAIRPERSON MILLER: Well, no.

4 MEMBER ALBERTI: Okay.

5 CHAIRPERSON MILLER: Can you wait
6 until --

7 MEMBER ALBERTI: All right. Fine,
8 fine. Go ahead.

9 CHAIRPERSON MILLER: I'm going to
10 backtrack because I asked you earlier about,
11 and I'm sure, I believe you testified you
12 showed your badge or whatever at the window.
13 Is that right?

14 INVESTIGATOR JONES: Yes, ma'am.

15 CHAIRPERSON MILLER: Because I
16 asked you before, you know, do you think there
17 was a language issue and you said no.

18 INVESTIGATOR JONES: You said with
19 the owner. I thought you mentioned with the
20 owner.

21 CHAIRPERSON MILLER: Okay. So no?

22 INVESTIGATOR JONES: You're asking

1 me about employees now.

2 CHAIRPERSON MILLER: Okay.

3 INVESTIGATOR JONES: I didn't --

4 CHAIRPERSON MILLER: I may not
5 have been specific enough. And actually what
6 I was referring to was when you were trying to
7 get in. I don't know who it was, who you
8 would have shown your badge to. I mean, did
9 you show your badge and then they got scared?
10 I mean, and then they -- I don't know that
11 they got scared. But then they hid after you
12 showed your badge? Do you remember how that
13 went down?

14 INVESTIGATOR JONES: Yes,
15 everything took place after I presented my
16 identification.

17 CHAIRPERSON MILLER: You presented
18 it outside the door through the glass?

19 INVESTIGATOR JONES: When I --
20 yes, ma'am. Yes, ma'am.

21 CHAIRPERSON MILLER: Okay.

22 INVESTIGATOR JONES: And from what

1 I -- from my understanding is that as a
2 business owner, anybody who is employed with
3 the establishment, they are to be aware who we
4 are.

5 CHAIRPERSON MILLER: Yes. So the
6 reaction was instead of opening the door, to
7 hide or run away or what?

8 INVESTIGATOR JONES: Yes, it
9 seemed that their reaction was we will just
10 hide and maybe they don't see us.

11 CHAIRPERSON MILLER: Okay. Okay.
12 Okay. Mr. Alberti, did you have a follow-up?

13 MEMBER ALBERTI: A real quick
14 question, Mr. Jones.

15 INVESTIGATOR JONES: Yes, sir.

16 MEMBER ALBERTI: Did you speak to
17 the two people who you believed to be
18 employees?

19 INVESTIGATOR JONES: No, sir.

20 MEMBER ALBERTI: So is it fair to
21 say you really don't know if they spoke
22 English or not?

1 INVESTIGATOR JONES: I was told
2 that they didn't speak English.

3 MEMBER ALBERTI: You were told.

4 INVESTIGATOR JONES: Yes, sir.

5 MEMBER ALBERTI: But you don't
6 know.

7 INVESTIGATOR JONES: I don't know.

8 MEMBER ALBERTI: Thank you very
9 much.

10 INVESTIGATOR JONES: Yes, sir.

11 MEMBER ALBERTI: No further
12 questions.

13 CHAIRPERSON MILLER: Okay. Other
14 Board questions? All right. So are there
15 questions on Board questions?

16 MR. STERN: Yes, there are.

17 CHAIRPERSON MILLER: Okay.

18 REDIRECT EXAMINATION

19 MR. STERN: Okay. I know we have
20 been through this, but I just want to confirm
21 some of these things.

22 You stated that when you got to

1 the establishment you knocked. Is that
2 correct?

3 INVESTIGATOR JONES: Yes, sir.

4 MR. STERN: And then you showed
5 your badge. Is that correct?

6 INVESTIGATOR JONES: Yes, sir.

7 MR. STERN: And then the three
8 people who were -- excuse me. The two people
9 who were not deaf who were identified to you
10 as employees, did they allow you in once you
11 showed your badge?

12 INVESTIGATOR JONES: No.

13 MR. STERN: So they refused to
14 allow you in?

15 INVESTIGATOR JONES: Yes.

16 MR. STERN: Okay. Now, the
17 landing that -- around the back, excuse me the
18 stairs around the back, does it go to an
19 establishment other than this establishment?

20 INVESTIGATOR JONES: No, sir.

21 MR. STERN: So the people coming
22 down the stairs is there -- could they have

1 been coming from any other place?

2 INVESTIGATOR JONES: No, sir.

3 MR. STERN: Okay. So they had to
4 have been coming from that establishment?

5 INVESTIGATOR JONES: Yes, sir.

6 MR. STERN: Okay. Now, when you
7 spoke with the owner, did she say anything to
8 you about whether or not there were patrons in
9 the establishment?

10 INVESTIGATOR JONES: She said
11 there was no one in there.

12 MR. STERN: Okay. So she refused
13 -- well, she refused to acknowledge the 15
14 people who had left, just left the
15 establishment?

16 INVESTIGATOR JONES: Yes, sir.

17 MR. STERN: Okay. Now, on the
18 Window Lettering Law, is there a particular
19 type of window lettering that is required?

20 INVESTIGATOR JONES: What we
21 normally do is give the business owners
22 temporary -- Government-approved temporary

1 window lettering for ABRA. And what they can
2 do is they could have that on there for a 30
3 day period and then it --

4 MR. STERN: No, no. I think you
5 misunderstand my question. Are you aware of
6 whether the law requires a specific size or
7 type of window lettering?

8 INVESTIGATOR JONES: The law
9 requires it to be -- you have to have a
10 certain verbiage --

11 MR. STERN: Okay.

12 INVESTIGATOR JONES: -- on the
13 window lettering.

14 MR. STERN: And are you aware if
15 the law requires that the window lettering
16 also be an inch and a half high?

17 INVESTIGATOR JONES: High, yes,
18 sir.

19 MR. STERN: Did you go around to
20 all the -- every -- all the windows and check
21 to see that there was no window lettering that
22 was at least an inch and a half high?

1 INVESTIGATOR JONES: Yes, sir.

2 CHAIRPERSON MILLER: Wait. Mr.
3 Stern, I'm sorry, but this is questions on
4 Board questions, correct? So why are you
5 going into other --

6 MR. STERN: It's questions on your
7 questions.

8 CHAIRPERSON MILLER: Right. So
9 did we ask --

10 MR. STERN: You asked questions --
11 well, the border line is --

12 CHAIRPERSON MILLER: -- questions
13 about window lettering?

14 MR. STERN: -- he asked questions
15 about the window lettering.

16 CHAIRPERSON MILLER: Oh, this is
17 your redirect on his?

18 MR. STERN: Yes.

19 CHAIRPERSON MILLER: Okay.

20 MR. MORRIS: I didn't ask about
21 window lettering.

22 MR. STERN: I believe you did.

1 You asked --

2 CHAIRPERSON MILLER: Did you?

3 MR. MORRIS: I asked about can you
4 see a piece of paper.

5 CHAIRPERSON MILLER: Right.

6 MR. STERN: Well, the only
7 relevance that has is if it was window
8 lettering.

9 MR. MORRIS: You interpret it.

10 MR. STERN: Yes, I am. It's the
11 only relevance that could possibly have.

12 MR. MORRIS: That's different from
13 what I said though.

14 MR. STERN: It's whether or not
15 that was an area of inquiry. I believe it was
16 because the only relevance that piece of paper
17 could have had was whether it was window
18 lettering or not, because that's what the
19 charge is.

20 CHAIRPERSON MILLER: All right.
21 I'll give you a little --

22 MR. STERN: So I am asking follow-

1 up to the window lettering issue.

2 CHAIRPERSON MILLER: Okay.

3 MR. STERN: I'm sorry. Now, did
4 you say whether you went around and checked to
5 see whether there --

6 INVESTIGATOR JONES: Yes, sir.

7 MR. STERN: -- had the correct
8 height or and did any of the lettering have
9 any of the correct height?

10 INVESTIGATOR JONES: There was no
11 lettering.

12 MR. STERN: Okay. Now, you were
13 asked whether or not the license had to be
14 posted when they were operating.

15 INVESTIGATOR JONES: Yes.

16 MR. STERN: If there are patrons
17 in the establishment, does the license have to
18 be posted?

19 INVESTIGATOR JONES: Yes, sir.

20 MR. STERN: That's because when
21 there are patrons in the establishment, the
22 establishment is operating. Is that right?

1 INVESTIGATOR JONES: Yes, sir.

2 MR. STERN: Okay. Now, you were
3 asked about the 10 to 15 patrons who were
4 leaving. Do you have a breakdown of whether,
5 you know, male to female ratio approximately
6 of those?

7 INVESTIGATOR JONES: I think that
8 there were probably a 60/40 split male over
9 female.

10 MR. STERN: Okay. Did they appear
11 to be couples?

12 INVESTIGATOR JONES: Yes.

13 MR. STERN: Okay. And is it fair
14 to say there was more than one couple?

15 INVESTIGATOR JONES: Yes.

16 MR. STERN: Several couples?

17 INVESTIGATOR JONES: Yes.

18 MR. STERN: Okay. Did that also
19 lead you to believe that these were patrons
20 rather than employees?

21 INVESTIGATOR JONES: Yes, sir.

22 MR. STERN: Okay. Were any of

1 them dressed in uniforms of cooks or service
2 people or security people?

3 INVESTIGATOR JONES: No, sir.

4 MR. STERN: Okay. Now, that's
5 all. That's all the follow-up I have. Thank
6 you.

7 CHAIRPERSON MILLER: Mr. Morris,
8 do you have any questions for Investigator
9 Jones based on the Board's questions?

10 MR. MORRIS: Just a quick
11 clarification.

12 RE CROSS-EXAMINATION

13 MR. MORRIS: Did anyone verbally
14 refuse to let you in the building?

15 MR. STERN: Objection. Not
16 relevant.

17 CHAIRPERSON MILLER: Overruled.
18 Go ahead.

19 MR. MORRIS: That's my question.

20 MR. STERN: That's not part of the
21 charge that you verbally refused to let
22 somebody in. It's not relevant.

1 CHAIRPERSON MILLER: It's not --
2 go ahead, you can answer the question.

3 MR. STERN: You can answer.

4 INVESTIGATOR JONES: No, no one
5 verbally refused.

6 MR. MORRIS: All right. The other
7 questions I can clarify.

8 CHAIRPERSON MILLER: Okay. All
9 right. Thank you very much.

10 INVESTIGATOR JONES: Thank you.

11 (Whereupon, witness was excused.)

12 MR. STERN: Can I have a minute?

13 CHAIRPERSON MILLER: Okay.

14 MR. STERN: Yes, we are going to
15 call one more witness. They have gone to get
16 him right now.

17 CHAIRPERSON MILLER: Okay. Good
18 morning.

19 Whereupon,

20 INVESTIGATOR JASON PERU
21 was called as a witness by Counsel for the
22 Government, and having been first duly sworn,

1 assumed the witness stand and was examined and
2 testified as follows:

3 INVESTIGATOR PERU: I do.

4 CHAIRPERSON MILLER: Okay. Thank
5 you.

6 DIRECT EXAMINATION

7 MR. STERN: Yes, could you give us
8 your name and spell your last name for the
9 record, please?

10 INVESTIGATOR PERU: Investigator
11 Jason Peru, P-E-R-U.

12 MR. STERN: Okay. And are you
13 familiar with an establishment that goes by
14 the trade name of Ghion Restaurant and Lounge?

15 INVESTIGATOR PERU: Yes, I am.

16 MR. STERN: Were you there during
17 an inspection, an investigation that took
18 place on September 7, 2013?

19 INVESTIGATOR PERU: Yes, I was.

20 MR. STERN: Okay. Do you recall
21 what the layout of the inside of the
22 establishment on the second floor is?

1 INVESTIGATOR PERU: Vaguely, yes.

2 MR. STERN: Okay. To the best of
3 your recollection, can you tell us what there
4 is?

5 INVESTIGATOR PERU: I believe
6 there is a bar on the second floor. If I'm at
7 the back door entering, I believe it is on the
8 back right in the right hand corner.

9 MR. STERN: Okay. Did you go into
10 the second floor on that evening?

11 INVESTIGATOR PERU: Yes, I did.

12 MR. STERN: Okay. Did you see --
13 well, did you look for alcoholic beverages?

14 INVESTIGATOR PERU: Yes, I did.

15 MR. STERN: And what is it that
16 you saw?

17 INVESTIGATOR PERU: There was no
18 alcohol on the tables. I believe the
19 bartender was behind the bar cleaning up, so
20 we weren't able to get any photos of actual
21 beverages being poured or served.

22 MR. STERN: Okay. So they were in

1 the process of cleaning up at was it 3:45?

2 INVESTIGATOR PERU: At that point,
3 maybe even 4:00. Yes, it was late at that
4 point, yes.

5 MR. STERN: Okay. So almost an
6 hour after closing time they were in the
7 process of cleaning up?

8 INVESTIGATOR PERU: Yes, sir.
9 What occurred to be, yes.

10 MR. STERN: Okay. And thank you.
11 That's all the questions I have for this
12 witness.

13 CHAIRPERSON MILLER: Do you have
14 questions based on the testimony?

15 MR. MORRIS: No.

16 CHAIRPERSON MILLER: No? Are
17 there Board questions?

18 MEMBER ALBERTI: Just one quick.

19 CHAIRPERSON MILLER: Okay. Mr.
20 Alberti?

21 MEMBER ALBERTI: Investigator
22 Peru, so there is a bar upstairs. Is it a

1 fully-stocked bar?

2 INVESTIGATOR PERU: Yes, sir.

3 MEMBER ALBERTI: Okay. What else?
4 What other furnishings are up there? Do you
5 remember?

6 INVESTIGATOR PERU: Just lounge
7 seating and chairs from what I can recall. It
8 has been a while since I have been there.

9 MEMBER ALBERTI: What was it?

10 INVESTIGATOR PERU: Lounge seating
11 and chairs and some tables.

12 MEMBER ALBERTI: Okay. Did you
13 see any garbage pails or anything like that
14 around that would have had refuse in them, in
15 it?

16 INVESTIGATOR PERU: I can't recall
17 any garbage cans. I mean, no, no, I can't
18 recall.

19 MEMBER ALBERTI: Okay. All right.
20 And by cleaning up, what do you mean? They
21 were cleaning up behind the bar, what's that
22 mean?

1 INVESTIGATOR PERU: I saw the
2 bartender, you know, with glasses, maybe
3 rinsing them. There was nothing -- there were
4 no -- I didn't see any alcoholic beverages,
5 but just being, you know, typical of rinsing
6 and putting away stuff behind the bar.

7 MEMBER ALBERTI: All right. By
8 stuff what do you mean? Glasses? Did you say
9 glasses?

10 INVESTIGATOR PERU: Glasses,
11 barware and whatnot, yes.

12 MEMBER ALBERTI: Okay. It was
13 being washed and then being put away?

14 INVESTIGATOR PERU: Yes, sir.

15 MEMBER ALBERTI: Okay. Thank you.
16 No further questions.

17 CHAIRPERSON MILLER: Okay. Any
18 other questions? Any questions on Board
19 questions?

20 MR. STERN: None.

21 CHAIRPERSON MILLER: Okay. Thank
22 you very much, Mr. Peru.

1 INVESTIGATOR PERU: You're
2 welcome.

3 CHAIRPERSON MILLER: Okay.

4 (Whereupon, witness was excused.)

5 CHAIRPERSON MILLER: Okay.

6 MR. STERN: That is all the
7 evidence for the Government.

8 CHAIRPERSON MILLER: Okay. So
9 it's your turn. Are you all right with the
10 baby?

11 MS. ASSEFA: Yes.

12 CHAIRPERSON MILLER: Okay. So who
13 is going to -- what witness is going to
14 testify?

15 MS. ASSEFA: You need witness?

16 MR. MORRIS: She has no witnesses
17 here, no.

18 CHAIRPERSON MILLER: Okay. I
19 don't know whether she wants to testify? You
20 don't have to testify. It's up to you. They
21 have the burden of proof.

22 INTERPRETER ZEKIROS: So I have

1 one testimony she would like. She is not able
2 to able today to say -- to give the witness
3 about the case.

4 MEMBER SILVERSTEIN: Sir, you can
5 sit down.

6 CHAIRPERSON MILLER: Yes, you can
7 sit down. Actually the mike is on the table.
8 Okay. So you are saying she would have had a
9 witness, but she didn't?

10 INTERPRETER ZEKIROS: Yes.

11 CHAIRPERSON MILLER: Ethiopia.

12 INTERPRETER ZEKIROS: Yes. She
13 has witness. The witness is not available
14 today, because she is back home in Ethiopia.
15 So she -- I mean, she can't come right now and
16 just give the testimony about that.

17 CHAIRPERSON MILLER: Okay. So is
18 there --

19 INTERPRETER ZEKIROS: He has
20 already seen her. And he -- the next day, he
21 has already seen her.

22 CHAIRPERSON MILLER: Who has?

1 INTERPRETER ZEKIROS: The person
2 which is -- who give the --

3 CHAIRPERSON MILLER: The
4 Investigator?

5 INTERPRETER ZEKIROS: Yes,
6 Investigator, yes.

7 CHAIRPERSON MILLER: Okay. So
8 it's just if she or somebody wants to give her
9 side of the story, she could if she wants to
10 get something in evidence. No?

11 INTERPRETER ZEKIROS: No, she is
12 good.

13 CHAIRPERSON MILLER: Okay. So
14 that means, you know, the case will be
15 determined by what is in evidence and your
16 cross and all that stuff, what happened today,
17 that's all the -- what happened here, the
18 investigative report is in evidence and then
19 the testimony, okay, that we heard today and
20 the answers to the questions.

21 Okay. Okay. Ms. Assefa, if there
22 is nothing more you want to add, you know,

1 that's your choice. That's okay. But if
2 there is, now is the time.

3 MR. MORRIS: Okay. I think I'm
4 not sure of proceeding.

5 CHAIRPERSON MILLER: Okay.

6 MR. MORRIS: I think one thing she
7 can recall probably more clearly some of the
8 things like the male/female ratio, whether
9 there were couples who left, that sort of
10 thing. So I think what she is saying is that
11 there were no couples and it was three males
12 and --

13 CHAIRPERSON MILLER: Okay. So she
14 would need to be under oath to get that in
15 evidence.

16 MR. MORRIS: Okay. Okay.

17 CHAIRPERSON MILLER: If you want
18 to testify to that.

19 MR. MORRIS: Sure.

20 CHAIRPERSON MILLER: No? Okay. I
21 just wanted to make sure. It's not like you
22 need a break or anything right? You just

1 don't -- right, because you don't have to, you
2 know. Okay. All right.

3 So what happens now is we will
4 close the record for the evidence. Nobody
5 else has any more evidence they want to put
6 in. Correct?

7 MR. STERN: That's correct.

8 CHAIRPERSON MILLER: Okay. So we
9 are at closing. So Mr. Stern I'm sure will
10 make a closing argument for the Government.
11 You can then make an argument if you want, you
12 know, based on the evidence we heard today.
13 Okay?

14 All right. Mr. Stern?

15 MR. STERN: Yes. The Government
16 believes we have proven each of the charges in
17 this case. In any case, there are two
18 categories of evidence. There is what we call
19 direct evidence and that is somebody saw
20 something and testifies about it. And there
21 is circumstantial evidence and that is from
22 which -- evidence from which the finder of

1 fact can determine, based on the
2 circumstances, what occurred.

3 In this case, we have both direct
4 and circumstantial evidence.

5 As to the window lettering, that's
6 direct evidence. The testimony uncontradicted
7 was that the Investigator went around to each
8 of the windows and did not see any of the
9 required window lettering.

10 As to the -- I'm going through the
11 easiest ones first, I guess. As to the
12 license, again, we have direct evidence.
13 There was no posted license. It was not under
14 glass. It was not hanging up and, in fact, we
15 know it was put away inside a binder, because
16 that's where the owner got it to show it to
17 the Investigator. So again, direct evidence.

18 Now, again, we have the charge of
19 failing or refusing to allow an ABRA
20 Investigator to enter or inspect without delay
21 and that's the essential elements of what we
22 have here. We don't have to have written

1 notification. We don't have to have oral
2 notification. We just have to have an
3 Investigator approach an employee, ask to
4 enter and not be allowed in. And that's
5 exactly what happened here.

6 Nobody told him no, you can't get
7 in. They locked the door and when they saw
8 his badge, one, they hid. Two, they ran
9 upstairs. And three, they did not open the
10 door to allow the Investigator in. Not only
11 without delay, they didn't allow him in
12 whatsoever into the downstairs. He had to go
13 around the back and catch people trying to run
14 out.

15 And we know and this is where
16 circumstantial evidence comes in, that we know
17 that they were trying to avoid the
18 Investigator because as soon as he knocked and
19 the woman ran upstairs, a crowd of people
20 filed out of the establishment down the
21 stairs. They were clearly trying to clear the
22 place out.

1 There is also the matter of her --
2 of the testimony where the owner told the
3 Investigator there was no one inside. That is
4 obstructing an investigation as well, because
5 she wasn't cooperating in giving him the
6 facts, but more importantly was the
7 obstruction which occurred outside the front
8 door.

9 We know that they were employees,
10 because the owner told the Investigator two of
11 those people were employees. So it was not
12 even a case where they refused to answer the
13 door. Two employees saw the badge through the
14 window, looked at him he said and then hid and
15 refused to allow him entrance. So the
16 Government has proven that element.

17 As to the operating after hours,
18 the substantial change violation, I believe,
19 is the easier of the two or uses less
20 circumstantial evidence I should say. There
21 were clearly people who we can identify, based
22 on our common understanding of how people act

1 in establishments that were patrons inside.

2 There were also -- it's also the
3 fact that it is over almost an hour after
4 closing time and all 10 to 15 leave at once.
5 That's not something that employees generally
6 do. There is also no reason since they were
7 still cleaning up inside for them to have had
8 10 to 15 additional employees nor is there any
9 evidence that there are.

10 The only evidence before the Board
11 is that the Investigator's impression was that
12 these were patrons based on their dress, based
13 on how they acted, based on all of the
14 circumstantial evidence around the case. So
15 there were patrons leaving the establishment
16 at, basically, 4:00 a.m., that is operating
17 after hours because they were doing that after
18 4:00.

19 Now, the harder circumstantial
20 evidence, though I think we have shown it, is
21 that they were selling or servicing alcoholic
22 beverages after 3:00 a.m.

1 Here we look to not only all the
2 things we saw before that patrons are there
3 another hour after closing time and there
4 would be no reason for them to be there in a
5 bar if not for the fact that they were also
6 indulging in the bar services. But also, that
7 at just about 4:00 a.m., the bartender is just
8 cleaning the glasses. That implies that they
9 were recently used, used after 3:00 a.m.,
10 because it has been now between 45 minutes and
11 an hour since the patrons -- they should have
12 cleared all the glasses. And he is just
13 cleaning them up, at this point.

14 Additionally, the fact that the
15 establishment refused entry to these -- yes,
16 well, refused is the right word. Refused
17 entry to the Investigators for a good five,
18 six, seven minutes after the Investigators got
19 there, leads us to -- and then rushed all the
20 patrons out leads us to believe that during
21 that time period they were taking the
22 alcoholic beverages off of the floor,

1 otherwise, they could have let them in right
2 away. There would be no reason for them not
3 to.

4 Based on the circumstantial
5 evidence and the direct evidence, which holds
6 equal weight by the way under the law, the
7 Government believes we have proven each
8 offense.

9 For Charge 1, we would ask for a
10 fine of \$2,000.

11 For Charge 2, we would ask for a
12 fine of \$2,000.

13 For Charge 3, we would ask for a
14 fine of \$2,000.

15 For Charge 4, we would ask for a
16 fine of \$500.

17 And for Charge 5, we would ask for
18 a fine of \$500.

19 Bringing the total fine to \$7,000
20 for this case on conviction of all of the
21 offenses. Thank you.

22 CHAIRPERSON MILLER: Okay. Thank

1 you. Mr. Morris, do you want to make a
2 closing argument?

3 MR. MORRIS: Yes. Yes, if I can
4 kind of be brief in summary.

5 I think that what actually
6 transpired was that the restaurant was closed.
7 The doors were locked. There were friends
8 sitting around talking inside. The officers
9 came up and they startled a couple of the
10 employees who did not speak English, one was
11 deaf. Their behavior clearly does not look
12 rational.

13 To hide in plain sight, to hide
14 under a table when you have a huge -- the door
15 is glass, you know, glass window. You are
16 running around. You hide under a table that
17 you can easily see. That's not -- that's some
18 panic like oh my, God, who is this?

19 They go upstairs. Once the
20 officers came upstairs, they were let in. Ms.
21 Assefa was -- did not obstruct. They did not
22 find any liquor being served because there was

1 no liquor being served. People were there
2 talking.

3 You know, it may not be common
4 behavior for Americans to sit around and not
5 drink and talk, that's not the case in the
6 Ethiopian community. It's just not.

7 And so you have friends, people
8 that are relaxing. The fact that someone is
9 cleaning up the bar at whatever time, doesn't
10 mean that a drink was just served. That is
11 not evidence of that.

12 Okay. Quite often she works in
13 the bar. She is there until 4:00 or 5:00
14 because you take time, you talk, you're not in
15 a rush. So I don't think that there is any
16 strong evidence. I don't think we have
17 evidence that people were being served alcohol
18 at all in this establishment after hours.

19 And based on her comments that
20 summarized the report, she was not. She has
21 not had previous violations, so I think
22 putting the ultimate limit on some of the

1 other things is exorbitant. You know, I
2 contend that at least in the picture that is
3 submitted as evidence, that piece of paper
4 that is in the window is the licensing in the
5 window.

6 In the case of the binder, it says
7 even in the report it was on the bar. It was
8 not hidden. It was not concealed, but, you
9 know, if it's supposed to be posted in a
10 particular place, I think it was the fact is
11 that it was there. They weren't actually
12 serving. I think in her understanding if we
13 are closed, we are not selling anything. We
14 are not serving anything. You know, I think
15 that's not a huge violation worthy of, you
16 know, multiple thousand dollars of fines.

17 And the refusal to let someone in,
18 I think that is a strong way of interpreting
19 what actually happened. When they came to the
20 door to come in and Ms. Assefa saw them, they
21 were let in. All right. Do what you have to
22 do.

1 There is no evidence prior to
2 since that she has tried to obstruct anything
3 and so I think that is also circumstantial
4 that she is not refusing to have people, the
5 ABC Board or representative of the ABC Board
6 come in and investigate.

7 So I think with what we have heard
8 today and what is here, I think that's clearly
9 the statement that I could make. Obviously,
10 there are some things that she could have done
11 better. I don't understand that you can
12 actually have nobody in, patrons or anybody
13 else in a place after closing. That's not the
14 law and she hasn't violated the law.

15 CHAIRPERSON MILLER: Okay. Thank
16 you very much. All right. So that concludes
17 the case.

18 I want to ask whether the parties
19 want to file proposed findings of fact and
20 conclusions of law or waive your right to do
21 so? And I can explain that to you.

22 MR. STERN: We'll waive it.

1 CHAIRPERSON MILLER: What, Mr.
2 Stern?

3 MR. STERN: We will waive.

4 CHAIRPERSON MILLER: Mr. Stern is
5 not going to do it. It's not done very often,
6 but you have the right if you want to file in
7 writing findings of facts based on the
8 evidence in the record. And then legal
9 conclusions to be drawn from them. So it's
10 like a legal brief or it's like doing a
11 proposed order for the Board.

12 You have a right to do it, but
13 it's a lot of work and it's not something the
14 Board is seeking, but if you wanted to put
15 that time and effort into writing. You can't
16 put in any new evidence.

17 MR. MORRIS: Okay.

18 CHAIRPERSON MILLER: Okay. So
19 would you like to waive or do?

20 MR. MORRIS: No new evidence?

21 CHAIRPERSON MILLER: No new
22 evidence.

1 MR. MORRIS: Okay.

2 CHAIRPERSON MILLER: The record is
3 closed, right.

4 MR. MORRIS: The record is closed.
5 Then I think we will waive.

6 CHAIRPERSON MILLER: Okay. Thank
7 you. Yes. Okay. So we have one more thing
8 that the Board is going to consider this in
9 closed session and so I'm going to take a vote
10 of the Board Members in order to do that.

11 As Chairperson of the Alcoholic
12 Beverage Control Board for the District of
13 Columbia and in accordance with Section 405 of
14 the Open Meetings Amendment Act of 2010, I
15 move that the ABC Board hold a closed meeting
16 for the purpose of seeking legal advice from
17 our counsel on Case No. 13-CMP-00473, Ghion
18 Restaurant, per Section 405(b)(4) of the Open
19 Meetings Amendment Act of 2010, and
20 deliberating upon this case for the reasons
21 cited in Section 405(b)(13) of the Open
22 Meetings Amendment Act of 2010.

1 Is there a second?

2 MEMBER ALBERTI: Second.

3 CHAIRPERSON MILLER: Mr. Alberti
4 seconded the motion. I'll now take a roll
5 call vote now that the motion has been
6 seconded.

7 Mr. Brooks?

8 MEMBER BROOKS: I agree.

9 CHAIRPERSON MILLER: Mr. Alberti?

10 MEMBER ALBERTI: I agree.

11 CHAIRPERSON MILLER: Mr.

12 Rodriguez?

13 MEMBER RODRIGUEZ: I agree.

14 CHAIRPERSON MILLER: Ms. Miller
15 agrees.

16 Mr. Silverstein?

17 MEMBER SILVERSTEIN: I agree.

18 CHAIRPERSON MILLER: Mr. Jones
19 just came at the end of the hearing. Welcome,
20 Mr. Jones. Are you not participating in this
21 case?

22 MEMBER JONES: I am participating.

1 CHAIRPERSON MILLER: You are
2 participating. Okay.

3 MEMBER JONES: Yes, I agree.

4 CHAIRPERSON MILLER: Okay. So Mr.
5 Jones agrees. Okay. Then the vote is 6-0-0.

6 MEMBER ALBERTI: You counted
7 right, six.

8 CHAIRPERSON MILLER: 6-0-0 and it
9 passes.

10 So I hereby give notice that the
11 ABC Board will hold a closed meeting in the
12 ABC Board conference room and deliberate on
13 this case and issue an order, a written order,
14 within 90 days.

15 Okay. Thank you all very much.

16 MR. STERN: Thank you.

17 CHAIRPERSON MILLER: Okay. Thank
18 you.

19 (Whereupon, the Show Cause Hearing
20 in the above-entitled matter was concluded at
21 11:53 a.m.)
22

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